

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

LEON JOHNSON,	)	
	)	
Movant,	)	
	)	
v.	)	Case No. 4:14CV262 CEJ
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**MEMORANDUM**

This matter is before the Court on the motion of Leon Johnson to vacate, set aside or correct sentence brought pursuant to 28 U.S.C. § 2255. The United States has not been ordered to respond.

On April 17, 2006, Johnson pled guilty to possession of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). Based on Johnson's status as a career offender, the guideline imprisonment range was 151-188 months' imprisonment. On July 31, 2006, Johnson was sentenced to a term of imprisonment of 155 months. He did not appeal the judgment. On July 26, 2007, Johnson filed his first motion to vacate pursuant to 28 U.S.C. § 2255. See Johnson v. U.S., 4:07CV1352 CEJ (E.D. Mo. 2010). This Court denied the motion, and the United States Court of Appeals for the Eighth Circuit denied movant-s application for a

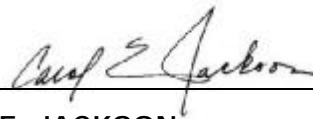
certificate of appealability on December 13, 2010. Johnson v. United States, No. 10-3346 (8<sup>th</sup> Cir. 2010).

In the instant motion, movant claims that he was denied effective assistance of counsel, particularly with regard to counsel's failure to file a direct appeal. Movant seeks an evidentiary hearing on this claim.

The instant motion is a second or successive motion which cannot be reviewed by this Court. 28 U.S.C. ' 2255(h) provides that a second or successive motion must be certified by a panel of the court of appeals as containing either newly discovered evidence or a new rule of constitutional law made retroactive on collateral review. In the instant case, Johnson has not obtained the requisite certification from the Eighth Circuit Court of Appeals. Therefore, this Court lacks authority under ' 2255 to grant the requested relief, and the motion will be dismissed.

A separate order of dismissal will accompany this Memorandum .

Dated this 19th day of March, 2014.



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CAROL E. JACKSON

UNITED STATES DISTRICT JUDGE